

## REMARKS

Claims 25 and 27 to 48 are presently in the application; apparatus claims 35 to 39 and 45 and 46 stand provisionally withdrawn from consideration as being directed to an unelected species.

Claim 25 is amended to overcome the rejection thereof based on Section 112, second paragraph. Claim 25 also is amended hereby to include the limitation that the recessed area extends between the catheter-engaging surfaces spacing them apart and defining at least one catheter-receiving channel extending across these surfaces; a key advantage of this limitation would be assuring that the catheter is not clamped flat and be damaged. New dependent claims 49 to 51 are proposed to be entered depending from claim 25, directed to the recessed areas being sufficiently wide for at least two catheters (claim 49), or defining two spaced-apart catheter-receiving channels (claim 50), or being free of sharp projections extending into the recessed areas (claim 51). Support for amended claim 25 and claims 49 and 50 is found in Figures 1A, 3, 4 and 6 to 10.

Claims 25, 27 to 33, 40 to 44, 47 and 48 stand rejected under 35 USC §103(a) as being unpatentable over Lavielle (U.S. Patent No. 4,514,882). Claim 34 stands rejected under 35 USC §103(a) as being unpatentable over Lavielle in view of Turturro et al (U.S. Patent No. 6,331,165). References Lavielle and Turturro et al have been discussed in the preceding Responses.

Reference Lavielle sets forth a device for preventing shoelace theft in a retail store by a clip that includes locking means such as the illustrated sharp projections 10 to extend through the shoelaces, to hold the shoelaces against being stolen (see column 3, lines 1 to 4); the reference is unconcerned with protecting the structural integrity of the laces. The artisan of routine skill seeking to provide a way of ascertaining movement of catheter proximal portions *vis-a-vis* a venotomy, or relative to each other, during subcutaneous tunneling thereof during catheter implantation into a patient, would not find shoelace anti-theft devices as analogous, but instead would be greatly concerned with assuring the integrity of a catheter, and would instantly determine that the disclosed device of Lavielle Figure 1 would clearly be ruinous to a catheter. In Lavielle, the clamping members are folded “so as to lie one against the other . . .”; see column 1, lines 44 to 45. Thus the reference teaches away from recessed areas between the “catheter-engaging” surfaces, or providing a “catheter-receiving channel” traversing the width of the device, as in amended claim 25. The artisan would not necessarily even consider a clip device at

all, to use to determine catheter movement (e.g., marking). Applicants respectfully traverse the assertion and the rejection.

Applicants refer to MPEP ¶2143.01, sections (V) and (VI), as providing that if a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification; and providing that if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.

With respect to new claim 51, interpreting the designated portions of the reference as guiding the artisan so far away from sharp projections so as to be nondamaging to a catheter, is simply implausible, since such a position could lead to an anti-theft device ineffective to prevent shoelace theft, and is clearly the result of impermissible hindsight. Reference is made to MPEP ¶2141.02(VI), wherein the prior art must be considered as a whole, including disclosure that would teach away from the claimed invention.

With regard to claim 34, there is no clear line of reasoning with rational underpinnings presented in the Office Action for the combination of the disclosure of reference Turturro et al with that of Lavielle. There is no reason that a routinely skilled artisan having shoelace-locking device of Lavielle before him or her, would look to reference Turturro et al in the medical apparatus arts for any improvements. Furthermore, claim 34 depends from claim 25, which is believed allowable over the prior art, and therefore claim 34 is also believed to be allowable.

All of claims 25 and 27 to 51 are believed to distinguish patentably over the prior art, and allowance of the application is respectfully requested, with rejoinder of the provisionally unelected claims. Please charge the requisite fee of \$156 for the three new claims, and any additional fees related to this submission, to **Deposit Account No. 502434**.

Respectfully submitted,

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(Date)

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